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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,062	07/29/2003	Christopher A. Wiklof	MVIS 02-22	8194

7590 10/31/2006

MICROVISION, INC  
6222 185TH AVENUE NE  
REDMOND, WA 98052

EXAMINER
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ST CYR, DANIEL

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/630,062

**Applicant(s)**

WIKLOF ET AL.

**Examiner**

Daniel St.Cyr

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 12-15, 18-23 and 25-40 is/are rejected.
- 7) ☒ Claim(s) 2, 10, 11, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/10/06</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is in response to the applicant amendment filed in which claim 25 was amended, claim 24 was canceled, and claim 40 was added.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7-9, 12-15, 18-23, 25-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Wine et al, US Patent No. 6,245,590.

Wine et al disclose a frequency tunable resonant scanner and method of making comprising: an illumination source 614 (infrared, emitters) for illuminating spots in a field of view; Photodetectors 610 for imaging the target object; decoding electronic circuits 612 for modulating the drive current of the illumination source 614 to modulated the intensity of the emitted light according to the desire image; buffer circuit 2200 for producing source signals; a timer-controller 2208 for producing pulses; scanning mirrors for,202 for deflecting the light across the field of view, wherein the speed can vary sinusoidally; including indicia decoder for decoding two-dimensional bar codes; leveling circuit coupled to buffer 2200. Mine et al meet the structure limitations of the claims and capable of performing the method steps of the method claims. (See figures 9, 11, 24, 28; col. 17, line 8 to col. 8).

#### ***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wine et al, US Patent No. 6,245,590. The teachings of Wine et al have been discussed above.

Wine et al fails to disclose that the power is inversely proportional to the received energy. However, setting up specific proportion between the two values is just merely an engineering design choice for meeting specific customer requirements.

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system of Wine et al so as to produce inversely proportional power output. Such modification would provide a more accurate power output for producing desire images required by the customer. Furthermore, setting up specific mathematical relationship between input and output power is just an engineering choice for meeting specific requirement. Therefore, it would have been an obvious extension as taught by Wine et al.

***Allowable Subject Matter***

7. Claims 2, 10, 11, 16, 17, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Although the prior art of record teaches a system and method for controlling field-of-view illumination, which includes a detector for receiving energy, a controller for controlling the output power based on the received energy, etc., the prior art of record fails to disclose or fairly suggests all the details including, a beam source responsive to a signal to produce a second beam, a mirror for deflecting the second beam, forming the first beam that scans across the field of view, inverting the pattern of measured scattered energies, adding the inverted pattern energies to the first pattern, etc. These limitations in conjunction with other limitations in the claims were not shown by, would not have been obvious over, nor would have been fairly suggested by the prior art of record.

***Response to Arguments***

9. Applicant's arguments filed 8/28/06 have been fully considered but they are not persuasive. (See examiner remarks).

**REMARKS:**

In response to the applicant's argument regarding claim 1, the examiner respectfully disagrees. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references (teachings). See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

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1986). Regarding modulating the power, Wine et al disclose modulating the drive current, which is directly proportional to the power. Modulating the current is to modulate the power. Wine et al disclose modulating the intensity of the emitted light to a desired image, in order to achieve such result the receive energy must be known (modulating the illumination source is in response to the received energy). Furthermore, the intensity of the emitted light is modulated by modulating the drive current, which is directly proportional to the power. (see col. 17, lines 8-64).

In response to the applicant's argument regarding claim 7, the examiner respectfully disagrees. The emitted light (illumination) is modulated to a desired image. If the emitted is determined to be low (reduced range) or high (elevated range), the emitted light is modulated accordingly.

In response to the applicant's argument regarding claim 12, the examiner respectfully disagrees. A controller ( a CPU or any computer interface) is inherently present for controlling the operation of the system, for determining the appropriate modulation of the signal, etc.

In response to the applicant's argument regarding claims 18 and 23, the examiner respectfully disagrees. Wine et al disclose continuous or pulsed beams of light, the detector is oriented to detect said pulsed beam of light. (See col. 18, lines 1-8).

In response to the applicant's argument regarding claims 26 and 36, refer to the response of claim 1 above. The applicant's arguments are not persuasive. Refer to the rejection above.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

DS  
October 19, 2006

A handwritten signature in black ink, appearing to read "Daniel St. Cyr", is written over a horizontal dashed line.